

BY: \_\_\_\_\_  
TIME: 10:28



**Republic of the Philippines  
Supreme Court  
Manila**

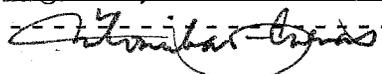
*EN BANC*

**ANONYMOUS COMPLAINT A.M. No. RTJ-21-003  
AGAINST HON. JOSE S. (Formerly OCA IPI No. 17-  
JACINTO, JR., Presiding Judge of 4704-RTJ)  
Branch 45, Regional Trial Court  
(RTC) of San Jose, Occidental Mindoro** Present:

GESMUNDO, C.J.,  
LEONEN,  
CAGUIOA,  
HERNANDO,  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
LOPEZ, M.\*\*  
GAERLAN,  
ROSARIO,  
LOPEZ, J.  
DIMAAMPAO,  
MARQUEZ,\*  
KHO, JR., and  
SINGH, JJ.

Promulgated:

August 9, 2022

X -----  ----- X

**RESOLUTION**

***PER CURIAM***

Before this Court is a Manifestation with Motion<sup>1</sup> dated 10 May 2022 filed by former Judge Jose S. Jacinto, Jr. (respondent).

\*\* On official leave.

\* No part due to prior participation as the Court Administrator.

<sup>1</sup> Copy attached to the Temporary *Rollo*.

In *Anonymous Complaint against Judge Jacinto*,<sup>2</sup> this Court found respondent guilty of 17 counts of gross ignorance of the law or procedure, and ordered his dismissal from service with forfeiture of retirement benefits, except leave credits, and prohibited his re-employment in the government. In addition, this Court also found him liable for gross misconduct and ordered him to pay fine in the amount of ₱30,000.00.

Respondent's administrative liability for gross ignorance of the law stemmed from his orders in 17 criminal cases involving illegal drugs where he either granted motions for rehabilitation, or transferred custody of the accused to the Provincial Parole and Probation Office. This Court found respondent judge's actions unwarranted and clearly violative of the requirements set forth under Sections 54 and 57 of Republic Act (RA) No. 9165, or the Comprehensive Drugs Act of 2022. This Court observed that in those 17 criminal cases, he committed some of the accused to rehabilitation without (1) the endorsement of the Dangerous Drugs Board, and (2) an examination conducted by a Department of Health-(DOH) accredited physician. Meanwhile, those transferred to the custody of the parole and probation board did not appear to have undergone voluntary rehabilitation. Likewise, this Court noted that the Parole and Probation Office is not legally designated as a detention facility for those accused of illegal drug offenses pending trial.<sup>3</sup>

On the other hand, this Court found respondent liable for gross misconduct when he issued an order in Civil Case No. 1792 entitled, *Mike Tiu v. Leila Belly*, transferring the custody of prisoner Ruben Tiu (Ruben) from the national penitentiary in San Ramon Penal Colony in Zamboanga to the Sablayan Prison and Penal Farm (SPPF) in San Jose, Occidental Mindoro without the approval of the Supreme Court, and for a period of eight months. We held that Ruben's testimony did not appear indispensable in the resolution of Civil Case No. R-1792 to justify his transfer to Mindoro. Moreover, despite the parties' agreement to compromise as early as 23 May 2013, respondent continued to allow Ruben to stay in the SPPF. Since this Court imposed the penalty of dismissal and other concomitant penalties for the 17 counts of gross ignorance of the law, this Court ordered respondent to pay a fine of ₱30,000.00 for gross misconduct.<sup>4</sup>

<sup>2</sup> A.M. No. RTJ-21-003, 11 May 2021.

<sup>3</sup> *Rollo*, pp. 250-251.

<sup>4</sup> *Id.* at 314.

Respondent now comes before this Court, a year after he was held administratively liable, praying for the restoration of his retirement benefits.

In his motion, respondent admitted, with remorse, his lapses in the 17 illegal drugs and in Civil Case No. R-1792. To support his plea for judicial clemency, he cites his 39 years of service in the judiciary. He claims that his dedication, industry, loyalty, and devotion to work have been demonstrated without doubt. He explains that his transgressions started at the height of his personal sufferings in 2008 when he began experiencing bouts of vertigo attacks and high blood pressure, and when his wife fell ill, diagnosed, and later on succumbed to pancreatic cancer. Allegedly, these problems affected his discretion and foresight. He justifies his plea for the restoration of his retirement benefits, narrating that he already waived his rights to all the real properties in his wife's estate in favor of their children, as he previously expected that he will receive his benefits in full. He states that his retirement benefits would greatly help him defray the costs of regular medical check up due to vertigo, high blood pressure, high uric acid, and renal cyst.<sup>5</sup>

To support his assertions, he attached letters from the Integrated Bar of the Philippines (IBP) Occidental Mindoro Chapter, and the Municipal Social Welfare and Development Office (MSWDO) of Rizal, Occidental Mindoro attesting to his character. In their letter, the IBP-Occidental Mindoro Chapter state that their members know respondent as "compassionate towards the litigants, always fair, just and noble while resonating the wisdom and the heart of the law that may be applicable on the issues being threshed out. He was always prompt and ready to perform his duty as the judge and always punctual." According to them, respondent (1) diligently performed his duties as presiding judge of Branch 45 and as pairing judge of Branch 46 of Regional Trial Court (RTC) of San Jose, Occidental Mindoro, and (2) motivated lawyers to act in a dignified manner in the performance of their duties. Thus, they support his claim of clemency and plead that this Court consider respondent's contribution to the Province of Occidental Mindoro.<sup>6</sup>

Meanwhile, MSWDO officials claim that respondent has provided them legal guidance in handling violence against women and their

<sup>5</sup> Manifestation and Motion, pp. 2-3.

<sup>6</sup> In Re: Statement expressing support to Judge Jose S. Jacinto, Jr., Presiding Judge of the Regional Trial Court, Branch 45, San Jose, Occidental, Mindoro. Integrated Bar of the Philippines, Occidental Mindoro.

children (VAWC) clients. They maintain that VAWC victims appearing before respondent's *sala* have remarked that he is always neutral and impartial, and has helped them recover from their trauma.

Finally, respondent contends that similar to the cases of *Geocadin v. Peña*<sup>7</sup>, *Re: Letter of Judge Augustus C. Diaz, Metropolitan Trial Court of Quezon City, Branch 37, Appealing For Judicial Clemency (Re: Diaz)*,<sup>8</sup> *Re: Petition for Judicial Clemency of Judge Irma Zita V. Masamayor (Re: Masamayor)*,<sup>9</sup> and *Re: Allegations Made Under Oath at the Senate Blue Ribbon Committee Hearing Held On September 26, 2013 Against Associate Justice Gregory S. Ong, Sandiganbayan (Re: Ong)*,<sup>10</sup> he should likewise be extended mercy and compassion.

### Issue

The central issue in this case is whether or not the instant manifestation with motion for judicial clemency should prosper.

### Ruling of the Court

Pleas for judicial clemency are evaluated on a case-to-case basis because it entails balancing the purposes of disciplinary proceedings, as well as acknowledgment of an erring individual's reformation and potential. Modifications of prior rulings on administrative liability is not an excuse or pardon for gross errors but a careful consideration of all relevant circumstances to ensure that justice is served.<sup>11</sup> Broadly, the personal circumstances of the respondent, the damage caused to private parties, as well as the public's confidence in the judicial system, are some of the considerations that the Court must take into account in petitions for clemency.<sup>12</sup> Thus, to convince the Court to reconsider imposition of administrative sanctions, the movant has the burden of presenting evidence of remorse, reformation and potential. In evaluating pleas for clemency, the Court, has always relied on *Re: Diaz* for guidelines, *viz:*

<sup>7</sup> 195 Phil. 344 (1981).

<sup>8</sup> 560 Phil. 1 (2007).

<sup>9</sup> 683 Phil. 443 (2012).

<sup>10</sup> A.M. No. SB-14-21-J, 19 January 2021.

<sup>11</sup> *See Re: Ong, supra.*

<sup>12</sup> *Id.*

1. There must be proof of remorse and reformation. These shall include but should not be limited to certifications or testimonials of the officer(s) or chapter(s) of the Integrated Bar of the Philippines, judges or judges associations and prominent members of the community with proven integrity and probity. A subsequent finding of guilt in an administrative case for the same or similar misconduct will give rise to a strong presumption of non-reformation.
2. Sufficient time must have lapsed from the imposition of the penalty to ensure a period of reformation.
3. The age of the person asking for clemency must show that he still has productive years ahead of him that can be put to good use by giving him a chance to redeem himself.
4. There must be a showing of promise (such as intellectual aptitude, learning or legal acumen or contribution to legal scholarship and the development of the legal system or administrative and other relevant skills), as well as potential for public service.
5. There must be other relevant factors and circumstances that may justify clemency. (Citations omitted)

However, these guidelines were further refined in *Re: Ong*, which now requires the: (a) the lapse of at least five years from the time the person seeking clemency was penalized by the Court, unless extraordinary circumstances exist which would justify a grant of clemency within a shorter period; (b) a more concrete proof of remorse and reformation, as evinced not only by an acknowledgment of the wrongful actions and subsequent showing of sincere repentance and correction, but also an attempt of reconciliation in cases where there is a private offended party, or a public apology in the absence of such private offended party; and (c) a preliminary evaluation by the Court to find whether *prima facie* circumstances exist to grant the relief, and if in the affirmative, the referral of the clemency petition to a fact finding commission to determine if there is substantial evidence supporting the allegations therein.<sup>13</sup> On the other hand, if no *prima facie* case exists, the clemency plea should be dismissed without the need of referring the case to the fact-finding commission.<sup>14</sup>

<sup>13</sup> *Office of the Court Administrator v. Corales*, A.M. No. P-06-2272, 23 November 2021.

<sup>14</sup> *Re: Anonymous Letter dated August 12, 2010, Complaining Against Judge Ofelia T. Pinto, RTC, Br. 60, Angeles City, Pampanga*, A.M. No. RTJ-11-2289, 15 February 2022.

In *Re: Pinto*, this Court clarified that the additional guidelines in *Re: Ong* are to be applied prospectively from the date of its promulgation, or from 19 January 2021. The instant manifestation having been filed 31 May 2022, the aforesaid guidelines thus, apply.

At the outset, this Court notes that the five-year period has not been observed. In *Nuñez v. Ricafort*,<sup>15</sup> this Court explained that five years is a reasonable period by which the respondent can reflect on his past transgressions. This uniform period also harmonizes the inconsistency resulting from the *Re: Diaz* guidelines, which on the one hand, requires “sufficient time must have lapsed from the imposition of the penalty to ensure a period of reformation” while on the other hand, mandates that “the age of the person asking for clemency must show that he [or she] still has productive years ahead of him [or her] that can be put to good use by giving him [or her] a chance to redeem himself [or herself].” Indeed, time may be perceived as a single continuum and to require sufficient time to first lapse but at the same time demand that productive years still remain, may be contradictory in concept and purpose.<sup>16</sup>

In this case, respondent filed the instant manifestation with motion on 31 May 2022, or barely a year from this Court’s 11 May 2021 Decision. Hence, it is doubtful whether respondent had sufficient time to do some introspection. Admittedly *Re: Ong* allows situations where a petition for clemency may be filed earlier than five years from the date of promulgation of the adverse decision. Nonetheless, such early filing of the petition must be for “extraordinary reasons”, such as pressing and serious health concerns and extraordinary service to society. Here, respondent has not put forth extraordinary circumstances that would justify the urgent resolution of his petition for clemency. As to respondent’s supposed illnesses, vertigo, high blood pressure, high uric acid, and renal cyst, this Court is unconvinced that these medical conditions are compelling enough to merit disregarding the five-year period. There is no showing that they are life threatening nor require costly regular medical check-ups or expensive medication.

The same reasoning applies to his supposed waiver of rights in his deceased wife’s estate. While respondent may have relinquished his rights

<sup>15</sup> A.C. Nos. 5054 & 6484, 02 March 2021.

<sup>16</sup> In *Re: Judge Pinto*, supra 14.

to real properties in favor of his children, it does not follow that he would be left without any financial support from them. This Court admits that economic difficulties, or serious health crisis, and even old age are factors sometimes considered in determining pleas for clemency. Nonetheless, they do not replace the basic requirement that respondent must show both remorse and reform. Indeed, respondent has the burden to establish that both his own and the public's interest are served by the mitigation or reversal of the administrative sanctions imposed.<sup>17</sup>

It bears to emphasize that respondent was dismissed for 17 counts of gross ignorance of the provisions of RA 9165, and was fined ₱30,000.00 for gross misconduct for his questionable and irregular orders in transferring an accused outside a national penitentiary. In addition, respondent also has four prior administrative cases where he was found liable. Considering both the nature and frequency of his indiscretions, it became incumbent for respondent to mount persuasive and objective evidence that he is no longer the incompetent and imprudent magistrate who was the subject of these various administrative cases.<sup>18</sup>

Even if this Court ignores the time requirement, respondent's manifestation does not sufficiently establish his reformation. Although he has expressed remorse for his mistakes, it is unclear whether he understood the reasons for his dismissal, and what specific changes did he make, or intend to make, to avoid the same blunders. This Court has explained before that remorse and reformation must reflect how the claimant has redeemed his or her moral aptitude by clearly understanding the gravity and consequences of his or her conduct.<sup>19</sup> In other words, not only must respondent show repentance, his rehabilitation must likewise be clearly established. In his case, respondent's transgressions involved violations of procedural rules that unduly favored defendants in cases pending before him. Respondent was held administratively liable because his competence and character were established to be questionable. He should thus present evidence that during the intervening period, he has rehabilitated these aspects of his professional fitness.

Verily, even the supporting testimonials respondent attached to his manifestation do not provide factual and verifiable circumstances that would convince this Court that respondent is a changed person. These

<sup>17</sup> See *Omar v. Barraquias*, A.M. No. RTJ-17-2498, 28 September 2021.

<sup>18</sup> See *Ali v. Pacalna*, A.M. No. MTJ-03-1505, 722 Phil. 112, 117 (2013).

<sup>19</sup> Re: *Judge Pinto*, supra 14.

testimonials merely narrate past experiences with respondent and do not detail events that happened after the promulgation of this Court's 11 May 2021 Decision. The members of the IBP-Occidental Mindoro Branch simply stated in their letters that respondent served "with enthusiasm, and without regard [to the litigants'] social status or inclination in life, seeing that justice is served with dispatch; that he was "compassionate," "fair," "noble," "prompt"; or in the case of the MSWDO, "provided his legal guidance and wisdom" with neutrality. Evidently, these sweeping statements are not enough to negate respondent's troubled record. The Court must be convinced that respondent undertook actual engagements or activities that improved his professional fitness and character. More than broad allegations and motherhood statements on the performance of his judicial duties, this Court should be satisfied, by substantial evidence, that he corrected his erroneous behavior and enriched his judicial capabilities and integrity.

This Court has always stated that being a member of the profession, more so those who don judicial robes, is a privilege burdened with conditions. The cumbersome process and fixing of ethical standards help ensure that justice is administered effectively and equitably. Preservation of the public's trust in the judicial institution is indeed, a primary consideration in both admission and discipline of members of the profession and the bench. Necessarily, if a lawyer or judge commits a professional misstep and had been penalized thereon, pleas of reconsideration or mitigation must be supported with compelling proof of remorse, rehabilitation and potential. Judicial clemency is not a privilege or a right that can be availed of at any time.<sup>20</sup> Courts can only accord it upon showing that it is merited.<sup>21</sup>

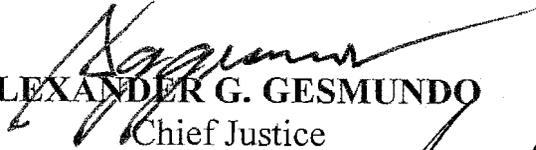
**WHEREFORE**, premises considered, the instant Manifestation with Motion, praying for judicial clemency dated 10 May 2022, is hereby **DENIED**.

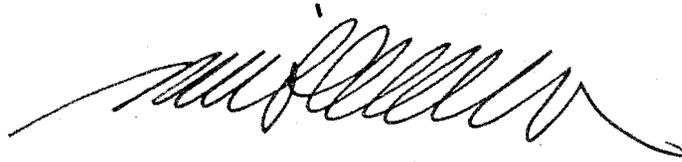
**SO ORDERED.**

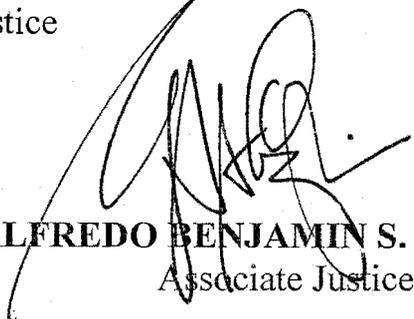
<sup>20</sup> *Concerned Lawyers of Bulacan v. Judge Villalon-Pornillos*, A.M. No. RTJ-09-2183, 805 Phil. 688, 693 (2017).

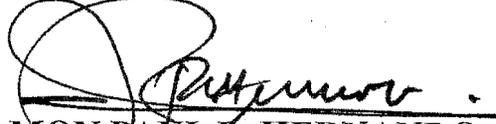
<sup>21</sup> *See Re: In the Matter of the Petition for Reinstatement of Rolando S. Torres as a Member of the Philippine Bar*, 767 Phil. 676, 684 (2015).

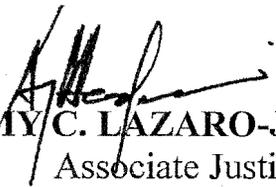
**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

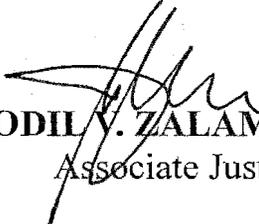
  
**MARVIC M. V. F. LEONEN**  
Associate Justice

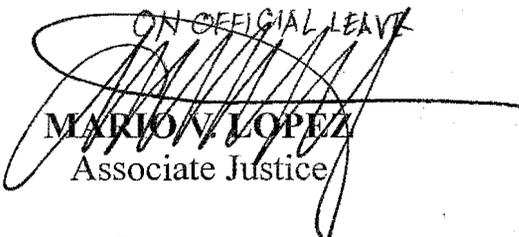
  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

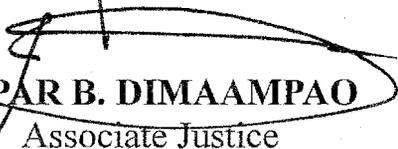
  
**RODIL V. ZALAMEDA**  
Associate Justice

*ON OFFICIAL LEAVE*  
  
**MARION V. LOPEZ**  
Associate Justice

  
**SAMUEL H. GAERLAN**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice  
*No part. Participated as  
Court Administrator*  
  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice

  
**JAPAR B. DIMAAMPAO**  
Associate Justice

  
**ANTONIO T. KHO, JR.**  
Associate Justice

  
**MARIA FILOMENA D. SINGH**  
Associate Justice